

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

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4 MICHAEL COTA,

5 Plaintiff

6 v.

7 KELLEY ATKINSON, *et al.*,

8 Defendants

9 Case No. 3:21-cv-0432-MMD-CLB

10 **ORDER TO PAY FILING FEE  
OR FILE APPLICATION TO  
PROCEED *IN FORMA PAUPERIS***11 **I. DISCUSSION**

12 On September 28, 2021, Plaintiff, an inmate in the custody of the Nevada  
 13 Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C.  
 14 § 1983. (ECF No. 1-1). Plaintiff has neither paid the full \$402 filing fee for this matter nor  
 filed an application to proceed *in forma pauperis*.

15 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin  
 16 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil  
 17 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the  
 18 inmate must submit all three of the following documents to the Court:

19 (1) a completed **Application to Proceed *in Forma Pauperis* for Inmate**, this  
 20 Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on  
 21 page 3),

22 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
 23 official (i.e. page 4 of this Court’s approved form), and

24 (3) a copy of the **inmate’s prison or jail trust fund account statement for the**  
 25 **previous six-month period**.

26 The Court will grant Plaintiff a **one-time** opportunity to file a fully complete  
 27 application to proceed *in forma pauperis* containing all three of the required documents,  
 28 or in the alternative, pay the full \$402 filing fee for this action on or before **November 29**,

1 **2021.** Absent unusual circumstances, the Court will not grant any further extensions of  
2 time.

3 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*  
4 with all three required documents or pay the full \$402 filing fee on or before **November**  
5 **29, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new  
6 case with the Court when Plaintiff is either able to acquire all three of the documents  
7 needed to file a fully complete application to proceed *in forma pauperis* or pays the full  
8 \$402 filing fee.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the  
10 case with the Court, under a new case number, when Plaintiff has all three documents  
11 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff  
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
13 full filing fee of \$402 on or before **November 29, 2021** to proceed with this case.

14 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court  
15 will not file the complaint unless and until Plaintiff timely files a fully complete application  
16 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send  
19 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well  
20 as the document entitled information and instructions for filing an *in forma pauperis*  
21 application.

22 IT IS FURTHER ORDERED that on or before **November 29, 2021**, Plaintiff will  
23 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and  
24 the \$52 administrative fee) or file with the Court:

- 25 (1) a completed Application to Proceed *in Forma Pauperis* for Inmate on this  
26 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
27 signatures on page 3),  
28 (2) a Financial Certificate properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and

2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
3 **previous six-month period.**

4 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
5 application to proceed *in forma pauperis* with all three documents or pay the full \$402  
6 filing fee for a civil action on or before **November 29, 2021**, this case will be subject to  
7 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case  
8 number, when Plaintiff has all three documents needed to file a complete application to  
9 proceed *in forma pauperis* or pays the full \$402 filing fee.

10 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint  
11 (ECF No.1-1) but will not file it at this time.

12 DATED: September 29, 2021

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14 UNITED STATES MAGISTRATE JUDGE  
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